

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

MICHAEL D. JONES,	§	
PLAINTIFF,	§	
	§	
v.	§	CIVIL CASE No. 3:22-CV-1905-N-BK
	§	
TATE REHMET LAW OFFICE, ET AL.,	§	
DEFENDANTS.	§	

ORDER ACCEPTING FINDINGS, CONCLUSIONS, AND  
RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE

The United States Magistrate Judge made Findings, Conclusions, and a Recommendation in this case. No objections were filed. But on January 18, 2023, Plaintiff filed a *pro se* amended complaint. Doc. 19. Even when liberally construed, Plaintiff does not plead any plausible claim. He merely states that he “will submit the amended complaint.” Doc. 19 at 4. Plaintiff has been given many opportunities to file an amended complaint that meets the requirement of Fed. R. Civ. 8(a). As of the filing of this order, he has yet to do so.

The Court reviewed the proposed Findings, Conclusions, and Recommendation for plain error. Finding none, the Court accepts the Findings, Conclusions, and Recommendation of the United States Magistrate. This action is therefore dismissed without prejudice for failure to comply with a court order and for lack of prosecution. *See* Fed. R. Civ. P. 41(b) (an involuntary dismissal “operates as an adjudication on the merits” unless otherwise specified).

Alternatively, even considering Plaintiff’s amended complaint, this action is dismissed without prejudice as frivolous and for failure to state a claim. Because Plaintiff seeks leave to proceed *in forma pauperis*, his complaint is subject to screening under 28 U.S.C. § 1915(e)(2)(B). That statute provides among other things for the sua sponte dismissal of a complaint if the Court finds that it (1) is frivolous or malicious, (2) fails to state a claim upon

which relief may be granted, or (3) seeks monetary relief against a defendant who is immune from such relief. A complaint is frivolous when it “lacks an arguable basis either in law or in fact.” *Neitzke v. Williams*, 490 U.S. 319, 325 (1989). A complaint lacks an arguable basis in law when it is premised “on an indisputably meritless legal theory,” *Id.* at 327, and fails to state a claim upon which relief can be granted if it does not plead “enough facts to state a claim to relief that is plausible on its face,” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007).

Federal Rule of Civil Procedure 8(a) requires that “[a] pleading that states a claim for relief must contain (1) a short and plain statement of the grounds for the court’s jurisdiction, unless the court already has jurisdiction and the claim needs no new jurisdictional support; [and] (2) a short and plain statement of the claim showing that the pleader is entitled to relief.” The Rule was created to “give the defendant fair notice of what the . . . claim is and the grounds upon which it rests.” *Twombly*, 550 U.S. at 545 (internal quotation marks and citations omitted).

The Court recognizes that complaints filed by pro se litigants “must be held to less stringent standards than formal pleadings drafted by lawyers.” *Erickson v. Pardus*, 551 U.S. 89, 94 (2007); *Cf.* FED. R. CIV. P. 8(e) (“Pleadings must be construed so as to do justice.”). “However, ‘[e]ven a liberally construed pro se . . . complaint . . . must set forth facts giving rise to a claim on which relief may be granted.’” *Mendoza v. Strickland*, 414 F. App’x 616, 618 (5th Cir. 2011) (quoting *Johnson v. Atkins*, 999 F.2d 99, 100 (5th Cir. 1993)).

Plaintiff’s amended complaint fails to satisfy the standards imposed by Rule 8(a). Specifically, Plaintiff presents no plausible facts and his claims are thus frivolous and without merit in law or fact. This action is therefore dismissed without prejudice as frivolous and for failure to state a claim.

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In sum, the Court ACCEPTS the Findings, Conclusions, and Recommendation of the United States Magistrate. It is therefore ordered that this action is DISMISSED WITHOUT PREJUDICE for failure to comply with a court order and for lack of prosecution. *See* Fed. R. Civ. P. 41(b) (an involuntary dismissal “operates as an adjudication on the merits” unless otherwise specified).

Alternatively, this action is DISMISSED WITHOUT PREJUDICE as frivolous and for failure to state a claim. *See* 28 U.S.C. § 1915(e)(2)(B).

SO ORDERED this 10<sup>th</sup> day of February, 2023.

  
CHIEF UNITED STATES DISTRICT JUDGE